

INITIAL STATEMENT OF REASONS

Section 97900 Chapter Definitions

The proposed regulation defines sixteen key words and terms contained in Chapter 16 of Title 22. These words and terms are defined to ensure their clear understanding and uniform application throughout the Chapter for potential applicants, applicants, and recipients of the Vocational Nursing Scholarship and Loan Repayment Program.

Section 97901 Available Funding

The proposed regulation specifies that awards shall be limited by the amount of funds available in the Vocational Nurse Education Fund (VNEF). Section 2895.5 of the Business and Professions Code allows the Board of Vocational Nursing and Psychiatric Technicians to collect a \$5.00 surcharge on the biennial licensure renewal for vocational nurses to fund the VNEF. The Office expects to collect approximately \$131,000 in the VNEF each year. This regulation is necessary because it is unlikely that the Office will be able to award scholarships and loan repayments to all eligible applicants due to the annual funding limitations of the VNEF.

Section 97902 Exceptions to Service or Payment Obligations for Scholarships or Loan Repayment Awards

The proposed regulation specifies that exceptions to service or payment obligations shall be made in certain circumstances. Situations may arise which could delay or preclude the recipient from fulfilling their obligation, and the program recipient should not be penalized for these unforeseen circumstances. These may include pregnancy, loss of employment, or physical or mental disability resulting in long-term or permanent inability to obtain gainful employment.

Section 97910 Scholarship Eligibility

The proposed regulation specifies that two groups of students may apply for a scholarship: vocational nursing students, and licensed vocational nurses enrolled as associate degree nursing students. As specified in section 128480 of the Health and Safety Code, the goals of the Vocational Nurse Education Program are to increase the number of vocational nurses practicing in medically underserved areas of California, and support and promote the education of vocational nurses.

Under section 128485(d) of the Health and Safety Code, the statute requires that licensed vocational nurses who are able to qualify under the Registered Nurse Education Program (RNEP) are ineligible to apply for the Vocational Nurse Education Program (VNEP). The Foundation will implement this statute by requiring the licensed vocational nurse applicant to first apply for the RNEP. If rejected, will then be considered eligible to apply for the VNEP.

Since RNEP funds are nearly nine times larger than VNEP funds and licensed vocational nurses are eligible to apply for two programs (RNEP and VNEP), this regulation will ensure that vocational nurse students are adequately supported by limited VNEP funds.

The proposed regulation also specifies that applicants with a contractual obligation to another entity are ineligible to receive a scholarship. Supporting vocational nursing students who have made a commitment to another entity in exchange for financial assistance does not help the Office meet its goal to increase the number of vocational nurses practicing in underserved areas. Therefore, the Office precludes such students from applying.

Section 97911 Duration and Terms of Scholarship Award

The proposed regulation specifies that a scholarship shall be awarded for one academic year at a time, and additional awards may be granted if certain conditions are met. This regulation allows the Office to award scholarships to students who may only need one quarter or semester of funding at a time or a full academic year of funding. Funding scholarships for one year at a time allows the Office to monitor the student's academic progress before considering additional awards.

In general, the vocational nursing program is a fourteen- to twenty four-month curriculum. This regulation gives the Foundation the ability to award scholarships up to a total of three years to allow for full-time or part-time enrollment and because the Foundation desires to fund them for the duration of their program, if feasible, but not any longer.

Section 97912 Permissible Scholarship Costs

The proposed regulation specifies that the scholarship shall support educational expenses for a vocational nursing or associate degree nursing education. The regulation is necessary because the scholarship should pay for educational costs that are essential for full participation in the nursing program. Vocational nursing programs, like registered nursing programs, are high-cost academic programs requiring students to purchase uniforms, specialized equipment, and medical supplies, and travel to various clinical sites.

The Foundation has elected to adopt cost estimates compiled by the California Student Aid Commission (CSAC) to determine the total scholarship amount, specifically cost of attendance data for public and privately-funded postsecondary educational institutions. The CSAC collects reliable data about tuition and provides a standard budget amount for other reasonable educational and living expenses for both public and private institutions. The CSAC data is used as the basis for awarding financial aid at educational institutions statewide.

Section 97913 Scholarship Application Process

The proposed regulation specifies that a completed application shall contain specific information and that there are two annual opportunities to apply for this program. The regulation is necessary to elicit data and information to support the selection of recipients. The required information helps the Office assess an applicant's likelihood to be academically successful in the nursing program as well as their likelihood to practice in a medically underserved area beyond scholarship funding.

Historically, the Foundation has offered a Fall and Spring deadline to provide students who are accepted or enrolled in a health professions program in the Fall or Spring an immediate opportunity to apply for funding. These deadlines allow time for the review and processing of applications and contracts prior to the beginning of the student's academic semester or quarter.

Section 97914 Scholarship Selection Process

The proposed regulation specifies that the Foundation shall consider factors that may indicate probability of program success, and the nursing or vocational nursing workforce needs of the state and of medically underserved areas. This regulation is necessary to establish relevant factors that will be used to select recipients and is intended to identify those students who demonstrate the greatest likelihood to practice in a medically underserved area beyond the period of obligated professional service, and support the Foundation's statutory obligation to increase the number of licensed vocational nurses practicing in underserved areas in California.

Section 97915 Disbursement of Scholarship Award

The proposed regulation specifies that the scholarship amount shall be issued to educational institution where the recipient is enrolled. The regulation ensures that the educational institution is directly compensated for tuition and other fees incurred by the student.

The proposed regulation also specifies that the educational institution shall deduct tuition and other fees and issue a check for the balance to the recipient. These funds may pay for additional educational expenses such as lab fees and equipment, books and medical supplies, uniforms, and travel costs.

Section 97916 Service Obligation Provisions for Scholarship Recipient

The goals of the Vocational Nurse Education Program are to increase the number of vocational nurses practicing in medically underserved areas of California, and support and promote the education of vocational nurses, including licensed vocational nurses who aspire to pursue an associate degree in nursing. The proposed regulation specifies that the scholarship recipient shall agree to a contractual service obligation to practice nursing for twenty four (24) months in a medically underserved area in California. The mandatory service obligation will attract and retain trained vocational nurses in medically underserved areas that have a difficult time competing with healthcare facilities that can offer higher salaries and/or signing bonuses. Representatives of healthcare facilities and nursing educators state that clinical practice is the key experience to socialize new graduate vocational nurses into their professional nursing role and to develop their practice and critical thinking skills to effectively perform as a vocational nurse. New graduate vocational nurses require at least one full year of work experience in the clinical setting to integrate nursing theory with its practical application. Year One is heavily focused on this type of training. In Year Two, healthcare facilities derive the benefit of a fully-trained vocational nurse who can exercise independent clinical reasoning and decision-making to perform direct patient care. A mandatory service obligation beyond two years would be unduly burdensome to the scholarship recipient.

A twelve-month period to obtain vocational nurse licensure after completion of vocational nursing education is reasonable and based upon several factors including the availability of official transcripts with the recipient's nursing degree posted, the frequency of vocational nurse licensure exams and the amount of time it typically takes to pass the licensure exam, and the amount of time it typically takes to secure employment as a vocational nurse in a medically underserved area.

A six-month period to obtain registered nurse licensure after completion of associate degree nursing education is reasonable and based upon several factors including the availability of official transcripts with the recipient's nursing degree posted, the frequency of registered nurse licensure exams, and the amount of time it typically takes to secure employment as a registered nurse in a medically underserved area. This six-month period is consistent with the Office's required service obligation for its existing associate degree nursing and baccalaureate of science degree nursing scholarship programs.

Section 97917 Penalties for Failure to Comply with Requirements of Program

The proposed regulation specifies that failure to complete the academic program and/or service obligation shall result in repayment of the scholarship award plus interest. Health and Safety Code section 128350(f) authorizes the Foundation to recover funds if a recipient fails to begin or complete their obligated service. A mathematical formula is used to calculate the amount of repayment. To maintain consistency, the Foundation is adopting the formula used to calculate penalties for its existing scholarship programs.

Section 97920 Loan Repayment Eligibility

The proposed regulation specifies that an applicant must be a licensed vocational nurse practicing direct patient care in a medically underserved area. As specified in section 128480 of the Health and Safety Code, the goals of the Vocational Nurse Education Program are to increase the number of vocational nurses practicing in medically underserved areas of California, and support and promote the education of vocational nurses.

The proposed regulation also specifies that applicants with a contractual obligation to another entity are ineligible to receive loan repayment. Supporting licensed vocational nurses who have made a commitment to another entity in exchange for financial assistance does not help the Office meet its goal to increase the number of vocational nurses practicing in underserved areas. Therefore, the Office precludes such persons from applying.

Section 97921 Loan Repayment Awards

The proposed regulation specifies that the loan repayment shall repay outstanding governmental and commercial educational loans not in default related to the recipient's vocational nurse education. This regulation is necessary because the loan repayment should pay for educational loans in good standing related to the recipient's vocational nursing education only, and not for educational loans related to other disciplines.

The proposed regulation specifies that the loan repayment award shall not exceed the estimated annual average cost of vocational programs throughout the state. This baseline award amount captures the cost of attendance for the majority of statewide vocational nurse programs and is sufficient to provide an incentive for recipients to serve in medically underserved areas.

The Foundation has elected to adopt cost estimates compiled by the California Student Aid Commission (CSAC) to determine the total loan repayment amount, specifically cost of attendance data for public and privately-funded postsecondary educational institutions. The CSAC collects reliable data about tuition and provides a standard budget amount for other reasonable educational and living expenses for both public and private institutions. The CSAC data is used as the basis for awarding financial aid at educational institutions statewide.

The Office may repay all or part of a particular loan because the award amount may be less than the amount of outstanding loan.

Section 97922 Loan Repayment Contracts

The proposed regulation specifies that a recipient may receive one loan repayment at a time. Additional contracts may be awarded if certain conditions are met. The Office shall not award more than three contracts to any recipient. This regulation allows the Office to monitor the completion of the initial contract before granting additional awards.

Section 97923 Terms of Loan Repayment

The proposed regulation specifies that loan repayments shall be made on a quarterly basis. A quarterly schedule is the most efficient and practical schedule to substantiate obligated service and amount of outstanding loan. To require this information on a more frequent basis would be unduly burdensome to the recipient's employer and lender or note holder as well as administratively impractical for the Office to manage.

Two documents must be provided before loan repayment funds are released: (1) A quarterly report verifying employment in a medically underserved area, and (2) a lender statement, dated within ninety days, verifying the outstanding loan balance. Upon receipt of these documents, funds are authorized for release.

Should the outstanding loan(s) be repaid by the Office and funds remain in the recipient's contract, those funds shall be disbursed directly to the program recipient. This regulation is necessary because the contract agreement between the Office and program recipient is for a specific amount, and the program recipient is entitled to the total funds encumbered for the contract. In addition, concurrent payments to the lender by the Office and recipient sometimes cause the loan to be repaid before the Office has paid the total contract amount. The Office requires the recipient to make concurrent payments to prevent the recipient's loan from defaulting or receiving late payment penalties.

Section 97924 Loan Repayment Application Process

The proposed regulation specifies that a completed application shall contain specific information and that there are two annual opportunities to apply for this program. The regulation is necessary to elicit data and information to support the selection of recipients. The required information helps the Office to verify completion of a licensed vocational nursing education program and LVN licensure.

Historically, the Foundation has offered a Fall and Spring deadline to provide graduates who have completed a health professions program in the Fall or Spring an immediate opportunity to apply for funding. These deadlines allow time for the review and processing of applications and contracts from health providers who can immediately practice direct patient care in a medically underserved area.

Section 97925 Selection Process

The proposed regulation specifies that the Foundation shall consider the nursing or vocational nursing workforce needs of the state and of medically underserved areas. This regulation is necessary to establish relevant factors that will be used to select recipients and is intended to support the Foundation's statutory obligation to increase the number of licensed vocational nurses practicing in underserved areas in California.

Section 97926 Service Obligation Provisions for Loan Repayment Recipient

The proposed regulation specifies that the loan repayment recipient shall agree to a contractual service obligation to practice vocational nursing for twenty four months in a medically underserved area in California. The service obligation shall commence upon the signing of the contract between the Office and recipient, and shall be fulfilled on a full-time basis.

The goals of the Vocational Nurse Education Program are to increase the number of vocational nurses practicing in medically underserved areas of California, and support and promote the education of vocational nurses. The mandatory service obligation will attract and retain trained vocational nurses in medically underserved areas since these areas have a difficult time competing with healthcare facilities that can offer higher salaries and/or signing bonuses. Representatives of healthcare facilities and nursing educators state that clinical practice is the key experience to socialize new graduate vocational nurses into their professional nursing role and to develop their practice and critical thinking skills to effectively perform as a vocational nurse. New graduate vocational nurses require at least one full year of work experience in the clinical setting to integrate nursing theory with its practical application. Year One is heavily focused on this type of training. In Year Two, healthcare facilities derive the benefit of a fully-trained vocational nurse who can exercise independent clinical reasoning and decision-making to perform direct patient care. A mandatory service obligation beyond two years would be unduly burdensome to the scholarship applicant.

Loan repayment recipients shall practice their vocational nursing profession on a full-time basis. "Full-time" basis is defined as a work week of not less than thirty two hours

per five-day period or work week. This determination is based upon information from Foundation advisors and appeals from working registered nurses who indicated that requiring a forty-hour work week may cause an undue burden on registered nurses who work non-traditional schedules – i.e., two – twelve-hour shifts and one – eight-hour shift, or three – twelve-hour shifts.

Upon signing of the contract between the Office and recipient, the Office shall agree to make quarterly payments directly to the lending institution. Concurrently, the loan repayment recipient shall agree to immediately begin full-time direct patient care in a medically underserved area in California. This agreement ensures that in exchange for loan repayment, the recipient is providing direct patient care in a medically underserved area.

Section 97927 Penalties for Failure to Comply with Requirements of Program

The proposed regulation specifies that failure to meet program requirements result in repayment of the loan repayment award plus interest. Health and Safety Code section 128350(f) authorizes the Foundation to recover funds if a recipient fails to begin or complete their obligated service. A mathematical formula is used to calculate the amount of repayment. To maintain consistency, the Foundation is adopting the formula used to calculate penalties for its existing loan repayment programs.

Technical, Theoretical and/or Empirical Studies, Reports or Documents

The Foundation relied upon the following technical reports and empirical studies:

- “Supply, Demand, and Use of Licensed Practical Nurses: May 2004”, prepared by the Department of Health and Human Services, Health Resources and Services Administration, Bureau of Health Professions, Office of Workforce Evaluation and Quality Assurance by the Center for Health Workforce Distribution Studies, University of California, San Francisco under Grant #1-U79-HP-00032-01
- “Staffing Needs Projections for LVNs and PTs (March 4, 2005)”, Board of Licensed Vocational Nurses and Psychiatric Technicians
- “Nursing Shortage – Summary of Issues (March 8, 2005)”, Board of Licensed Vocational Nurses and Psychiatric Technicians
- “Vocational Nurse Staffing in Long-Term Health Care”, California Association of Health Facilities
- “Growing Your Own Nurses”, California Association of Health Facilities
- “Long Term Care and Direct Care Staff Shortages by County – May 13, 2004 ”, data compiled by the California Association of Health Facilities

Reasonable Alternatives to the Regulations and the Agency’s Reasons for Rejecting Those Alternative

The Office has not identified any alternatives that would lessen any adverse impact on small businesses; granting scholarships to vocational nursing students and licensed vocational nurses is not anticipated to have any adverse impact on small businesses.

Evidence Supporting Finding of No Significant Adverse Economic Impact on Business

The proposed vocational nurse scholarship and loan repayment program poses no adverse economic impact on business.

Vocational nurses comprise almost thirty percent of the nation's total number of nurses. In March 2002, published reports indicated a statewide shortage of 3,500 vocational nurses in long-term care facilities and 28,000 additional vocational nurses will be needed in long-term care over the next ten years. These figures do not include vocational nurse shortages in residential care and assisted living facilities, developmental disability facilities, in-home supportive services, and adult day services. To meet the pressing demand for trained vocational nurses and to encourage individuals to enter the nursing profession, the Vocational Nurse Scholarship and Loan Repayment Program will support the state's health professional students and graduates by providing them financial assistance to alleviate pressures of combining work with study, and to complete their nursing program on schedule. The extent to which we can support the needs of the nursing workforce will increase our capacity to improve the health of all Californians.